



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,971	07/20/2004	Martin Kowalski	F-8335	8449
28107	7590	04/03/2006		
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			EXAMINER LE, MARK T	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/501,971	KOWALSKI, MARTIN	
	Examiner	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

1. This communication is responsive to the amendment filed on February 14, 2006. Applicant's amendments and remarks have been carefully considered.
2. In claim 6, line 3, "the only partly formed concreting" lacks an antecedent basis. It is suggested to be corrected to -- an only partly formed concreting --.
3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sonneville (US 3,190,607).

Sonneville disclose a two block tie having all the features as recited in the instant claims, including concrete blocks 1, laterally-offset protruding reinforcement parts or joists 2a (Fig. 3), elements 11, and weld connections at elements 11.

Regarding instant claim 2, note that elements 11 of Sonneville are readable as equalizing pieces.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonneville (US 3,190,607) in view of Mohr (US 6,488,215).

Sonneville is applied above.

It is noted that each of the two V-shaped, angled bar joists 2a of Sonneville is not in the configuration as recited in the instant claims. Mohr discloses two V-shaped, angled bar joists 3, each of which includes three longitudinal rods 4 forming the edges of a triangular prism, and connectors 5 that have the appearance of meandering coils in the assembled positions being provided to interconnect longitudinal rods 4 so as to form joist 3. In view of Mohr, it would have been obvious to one skilled in the art to substitute angled bar joists, similar to that taught by Mohr, for the bar joists of Sonneville so as to

Art Unit: 3617

achieve expected advantages thereof, such as high strength, lightweight, less material, and low costs.

Regarding the instant claimed bar joists being connected with one another by placed down sections, consider element 11 of Sonneville, which is readable as placed down sections.

5. Claim 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (US 6,488,215) in view of Sonneville (US 3,190,607).

Mohr discloses a two-block tie similar to that recited in the instant claims, including two concrete blocks 1, and laterally-offset protruding reinforcement parts or joists 3. Mohr does not describe weld connections between protruding reinforcement parts 3.

Sonneville disclose a two-block tie including concrete blocks 1, laterally-offset protruding reinforcement parts 2a (Fig. 3), elements 11, and weld connections at elements 11.

In view of Sonneville, it would have been obvious to one skilled in the art to further provide further connection elements, similar to elements 11 of Sonneville, and weld them between the protruding reinforcement parts of Mohr so as to enhance the structural integrity of the tie assembly.

As to the instant claimed downwardly protrusion, recited in instant claim 6, consider Figure 1 of Mohr, wherein concrete blocks 1 are readable as partly formed concreting, which can be noted at inwardly sloping surfaces 12; and whereat,

reinforcement parts 3 protrude downwardly out of the partly formed concreting as recited in the instant claim.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (US 990,650).

Hayes discloses a two-block railroad tie including concrete blocks 5, protruding reinforcement parts 9 and connectors 10. The assembling of the structure of Hayes inherently requires most steps recited in the instant method claim. Regarding the step of utilizing a gauge, note that the structure of Hayes is not designed with a fixed gauge, but rather with an adjustable means so that the gauge may be adjusted (see lines 12-19 of Hayes); therefore, it would have been obvious to one skilled in the art to use a gauge when adjusting the spacing between the two blocks during an installation process so as to achieve a proper track gauge.

Regarding the instant claimed method of connection being in the form of welding instead of by a mechanical connection as of Hayes. Note that connection by welding is a well known alternative to mechanical connections (Official Notice is taken). Therefore, it would have been obvious to one skilled in the art to substitute a weld connection for the mechanical connection of Hayes so as to achieve expected advantages of connections by welding, such as strong and reliable connections that does not easily become loosed by environmental factors, such as vibrations.

7. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (US 990,650) in view of Scott (US 3,574,898).

Hayes discloses a two-block railroad tie including concrete blocks 5, protruding reinforcement parts 9 and mechanical connector 10.

Regarding the instant claimed connector being in the form of pipe sections, as recited in instant claim 7, consider Scott; wherein, the mechanical connection as shown in Figure 5 of Scott is similar to mechanical connector 10 of Hayes; and as an alternative to the mechanical connector shown in Figure 5 of Scott, Scott also suggests another mechanical connector, as shown in Figure 1 of Scott, which is in the form of two internally threaded pipes (nuts 46, 48) welded at the flats. In view of Scott, it would have been obvious to one skilled in the art to substitute an alternative form of mechanical connector, similar to the alternative mechanical connector shown in Figure 1 of Scott, in the structure of Hayes so as to achieve expected advantages thereof, such as greater availability of parts.

8. Applicant's arguments are deemed moot in view of the new grounds of rejections set forth above.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the


Art Unit: 3617

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri (2:00-8:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Mark T. Le  
Primary Examiner  
Art Unit 3617

mle  
3/30/06